

long way to go. As we face the last days of this congressional session, I am disappointed that we are faced with a "take it or leave it" situation. However, I am supporting today's measure because a little help is better than no help. I am confident that this Congress will continue to have home health reform as its top priority when it returns next year.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to express my support for H.R. 4567, the Medicare Home Health Care and Veterans Health Care Improvement Act of 1998 and to congratulate the bill's sponsors for moving this important legislation forward before Congress adjourns this year.

While the bill is not perfect, it does promise to help the historically low-cost agencies that have been penalized by the interim payment system (IMPS) implemented in the Balanced Budget Act of 1997 for their past efficiencies in delivering high quality home care. I also applaud the sponsors of the bill for increasing the per visit reimbursement limit.

While I support the bill, I have some reservations. Texas is a big State with large rural areas. I am concerned that reimbursement to new health agencies in rural areas that must travel long distances to serve their patients is too low under the Interim Payment System. H.R. 4567 does little to help these new agencies.

Furthermore, the bill does nothing to postpone the 15% cut scheduled for next fall when HCFA fails to implement the Prospective Payment System by the October 1, 1999 deadline.

I hope to see these issues addressed during conference with the Senate. In addition, I can only hope that a more appropriate funding mechanism can be found in conference that does not create a tax loophole for the highest earners which raises money in the short run and costs us billions in the long run.

Mr. HILLEARY. Mr. Speaker, I would like to give my support, though reluctantly, to H.R. 4567, the Medicare Home Health Care and Veteran Health Care Improvement Act.

First, I would like to extend thanks to Chairman THOMAS, BLILEY, STUMP, ARCHER and BILIRAKIS for their hard work and countless hours spent crafting this legislation. I would also like to thank members from both sides of the aisle who have worked tirelessly on this subject, especially Congressmen RAHALL, ADERHOLT, COBURN, PAPPAS, STABENOW, and WEYGAND. If not for their hard work and perseverance, we would not even have this bill before us today.

This bill does wonderful things for both our veterans and those in need of kidney dialysis treatment. However, it is woefully inadequate in terms of its aid to home health.

For our veterans, it gives those who have served our country so proudly the right to receive Medicare benefits at VA facilities. This bill will open up access and help ease the financial burden that many of our veterans would otherwise face and create more flexibility on their medical care through a process known as "subvention." Under subvention VA facilities would be able to provide efficient and affordable "one-stop" shopping for veteran medical services. I am proud to support this initiative.

This bill also does a tremendous job for those kidney patients who need better access to dialysis machines. Under this bill "safe harbors" would be created to allow those in need to have a specialized dialysis help subsidize

their payments. This would give greater access and make more affordable dialysis machines to the many people who suffer from kidney failure.

However, I must stress my emphatic displeasure with the home health portions of this bill. I do not believe that the home health sections of this bill are bad ideas as written in the bill. Instead, I oppose the glaring omission of several essential elements that must be addressed in order to save this industry that provides health service to so many of our elderly. Among the major deficiencies in the bill are failures to address the agency retroactivity, regional equity, and the impending industry wide 15% cut set to occur next October 1.

I especially find it disheartening that this bill does not even attempt to help every region. In my state of Tennessee, most agencies will not even see a drop of this increase, yet we have already seen 24 closures this year. A regional solution is an incomplete solution.

I do not want to see us simply put a Band-Aid on the problem and pretend that we have done adequate work. By only going halfway on this issue, we have done the home health industry a disservice. For I fear that if we do not address these issues in the next few days, then we will be unable to solve the problems that these issues will create next year.

In particular, I feel that if the 15% cut goes into effect, the entire industry, and the seniors they serve, will be severely impacted. By putting off the problem until next year, the bill merely gives a wink and a nod without offering a solution. I know that if this problem is not addressed, either by establishing a permanent case-mix adjuster or a delay of the 15%, the industry will fail, and we will have this wasted opportunity to blame.

I am completely dumbfounded to why we give a halfhearted solution when we have the opportunity to do so much more. I hope that the issues in this bill are not closed. I hope that we still can address important issues like the impending 15% cut set for next year. If we do not come back next Congress and act quickly, I fear that the sick and elderly will never forgive us for our inaction.

I reluctantly urge my colleagues to support this bill and strongly urge my colleagues and the chairmen overseeing home health care to continue working and address the remaining critical problems facing this industry.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 4567, as amended.

The question was taken.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1300

PLANT PATENT AMENDMENTS ACT OF 1997

Mr. SOLOMON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1197) to amend title 35, United States Code, to protect patent owners

against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

The Clerk read as follows:

H.R. 1197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Plant Patent Amendments Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The protection provided by plant patents under title 35, United States Code, dating back to 1930, has historically benefited American agriculture and horticulture and the public by providing an incentive for breeders to develop new plant varieties.

(2) Domestic and foreign agricultural trade is rapidly expanding and is very different from the trade of the past. An unforeseen ambiguity in the provisions of title 35, United States Code, is undermining the orderly collection of royalties due breeders holding United States plant patents.

(3) Plant parts produced from plants protected by United States plant patents are being taken from illegally reproduced plants and traded in United States markets to the detriment of plant patent holders.

(4) Resulting lost royalty income inhibits investment in domestic research and breeding activities associated with a wide variety of crops—an area where the United States has historically enjoyed a strong international position. Such research is the foundation of a strong horticultural industry.

(5) Infringers producing such plant parts from unauthorized plants enjoy an unfair competitive advantage over producers who pay royalties on varieties protected by United States plant patents.

(b) PURPOSES.—The purposes of this Act are—

(1) to clearly and explicitly provide that title 35, United States Code, protects the owner of a plant patent against the unauthorized sale of plant parts taken from plants illegally reproduced;

(2) to make the protections provided under such title more consistent with those provided breeders of sexually reproduced plants under the Plant Variety Protection Act (7 U.S.C. 2321 and following), as amended by the Plant Variety Protection Act Amendments of 1994 (Public Law 103-349); and

(3) to strengthen the ability of United States plant patent holders to enforce their patent rights with regard to importation of plant parts produced from plants protected by United States plant patents, which are propagated without the authorization of the patent holder.

SEC. 3. AMENDMENT TO TITLE 35, UNITED STATES CODE.

(a) RIGHTS IN PLANT PATENTS.—Section 163 of title 35, United States Code, is amended to read as follows:

"§ 163. Grant

"In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any plant patent issued on or after the date of the enactment of this Act.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the

gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a noncontroversial measure which, incidentally, has already passed this House as a portion of H.R. 400, the Plant Patent Amendments Act of 1997. It will serve as a needed complement to current plant patent law.

Briefly, since 1930, the Patent Act has permitted inventors to obtain plant patents. Individuals wishing to skirt protections available under the law have discovered a loophole, however, by trading in plant parts taken from illegally-produced plants. H.R. 1197 closes this loophole by explicitly protecting plant parts to the same extent as plants under the Patent Act.

This bill, Mr. Speaker, is identical to language that was contained in an omnibus patent legislation passed earlier in the term that has since died in the Senate. There is no opposition to the bill, and I urge its adoption, as it will benefit American patent holders and the plant producers who honor their work by paying the necessary royalties.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the gentleman from North Carolina, Mr. COBLE.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FARR), one of the cosponsors of the bill.

Mr. FARR of California. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. FRANK) for yielding time to me.

Mr. Speaker, I rise in strong support of the Plant Patent Amendments Act of 1998.

Before I get started, I just want to say a few words about the cosponsor of this legislation, the gentleman from Oregon (Mr. SMITH), my chairman, friend, and a Willamette Bearcat. He is chairman of the Committee on Agriculture. He is leaving us at the end of Congress.

He has served the Second District of Oregon and this Nation with honor and an acute sense of propriety. For that he is to be commended. I think that he does not want any accolades, but to all of us who have served on the Commit-

tee on Agriculture and watched his style, his humor, his ability to bring a consensus, he is certainly one of the most tenacious agriculture traders. He has taken the committee to other countries, and every time he has gone he has been able to sell an awful lot of American agricultural products.

This country is going to miss him, this Congress is going to miss him. I wanted to take this moment to mention that.

I also wanted to say that this bill is noncontroversial. There is no opposition to it.

Mr. Speaker, I rise in strong support of H.R. 1197, the Plant Patent Amendments Act of 1998 and I thank you for allowing us the time to debate this legislation today. I would also like to thank Mr. COBLE and Mr. FRANK for managing this legislation that will make a simple technical clarification to the Plant Patent Act of 1930.

Before I get started, I want to say a few words about the sponsor of this legislation my chairman and friend, the gentleman a Willamette Bearcat from Oregon, Mr. SMITH who will be leaving us at the end of this Congress, again. The gentleman has served the 2nd District of Oregon and this nation with honor and an acute sense of propriety and for that he is to be commended.

His authoritative voice will certainly be missed on the Agriculture Committee in the 106th Congress. I also know that the entire agriculture community from apple producers in Oregon or to flower growers in California, wheat farmers in the Midwest, citrus growers in Florida will miss our standard bearer for open, fair, and free agriculture trade. I know of few people that have traveled the globe more promoting U.S. agriculture products.

Chairman SMITH, you will certainly be missed as a legislator and a friend.

I want to start my statement on H.R. 1197 by informing my colleagues that this should be a simple vote because this legislation has already been voted on and passed in this chamber as part of the Omnibus Patent Act of 1997 in April of last year. Unfortunately, the larger patent reform package, H.R. 400, is not expected to be completed before Congress adjourns. That is why we need to pass this legislation today so we can get this legislation through the other body and signed into law before the end of this Congress.

Mr. Speaker, California leads the nation, holding a 22 percent share for the production of flowers, foliage, and nursery products in the United States. For California, this two billion dollars plus industry ranks in the top ten of all agriculture commodities in the golden state.

Yet despite these positive statistics the number of American chrysanthemum growers has fallen by 25 percent, the number of carnation growers has fallen as by much as one-third and the remaining major commercial types of flowers have fallen in the double-figure range as well.

There are two primary reasons for this spiraling loss of American agriculture production relating to flower, foliage and nursery products. The first, can be addressed today by passing H.R. 1197 and the second is a failed drug policy established in the Andean Trade Preference Act.

Mr. Speaker, H.R. 1197 is a simple technical clarification to a loophole in the Plant

Patent Act of 1930. This legislation will fulfill the original intent of Congress by specifically providing that plant patents are extended to include parts of plants, thus halting the current abuse of U.S. patent holders and growers' rights of cut flowers, fruit crops, timber crops, and other propagated plants.

Currently, plant breeders, patent holders and growers are being harmed by a loophole in the Plant Patent Act of 1930 which allows foreign competitors to asexually reproduce and propagate plants that hold U.S. patents.

Without passage of H.R. 1197 during this Congress, the U.S. position as a world leader in plant research and development will continue to erode. U.S. and foreign growers of protected varieties, who are now paying royalties and growing U.S. patented varieties illegally, are at an unfair competitive disadvantage to such infringing imports.

It was Congress' original intent in the Plant Patent Act of 1930 that it should be illegal to sell the fruit, flowers, and other products derived from a patented plant reproduced without authorization. H.R. 1197 reaffirms this intent.

This legislation has broad support from the American Nursery and Landscape Association, the American Bar Association, the International Rose Breeders Association, the Society of American Florists, the American Intellectual Property Lawyers Association, the American Seed Trade Association, the National Association of Plant Patent Owners, and the Wholesale Nursery Growers Association.

As I mentioned there are two primary reasons that we are losing this sector of American agriculture. The first, we will begin to take care of today with passage of H.R. 1197. The second, I will continue to push for in the next Congress. We need fairness for our farmers by ending a failed drug policy.

Since enactment in 1991, the Andean Trade Preference Act (ATPA) has provided duty-free access to the U.S. market for flower exporters in four Latin American countries: Colombia, Bolivia, Ecuador, and Peru. For seven years it has allowed flower growers in these four countries to avoid tariffs normally imposed on their product, tariffs ranging from 3.6 percent to 7.4 percent.

The ATPA simply provides Colombian flower growers an unnecessary edge in a market they already dominate—to the detriment of domestic flower growers. The International Trade Commission acknowledged in 1995 and 1996 that the ATPA has had a greater impact on the U.S. fresh cut flower industry than any other market examined.

The purpose of this preferential treatment was intended to encourage Andean countries to develop legal alternatives to drug crop cultivation and production. However, coca eradication efforts to date in Colombia have been much less than anticipated. This policy has failed. For the third consecutive year Colombia has failed in its efforts to be fully certified or reduce the production of illegal drugs. In order to maintain an open dialogue the Administration recently made the determination to put forward a national interest waiver with respect to Colombia. The results in Colombia are particularly disheartening, given that eradication is generally a bilateral effort in which the United States supplies the funding, fuel, and herbicides with the host government providing the personnel.

Mr. Speaker, In closing, I urge my colleagues to support H.R. 1197 and the American flower, foliage and nursery growers that

are in a unique situation. They are the economic poster children for a failed trade policy and the sacrificial lamb in a failed foreign policy war to end drug trafficking.

Mr. FRANK of Massachusetts. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California just referred to my friend from Oregon as a Bearcat. I never heard that before, but it is probably applicable. I agree with the gentleman from California, the gentleman from Oregon (Mr. SMITH) will indeed be missed.

Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. SMITH).

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I only wanted to rise to thank my friend, the gentleman from California, for his kind words, and my dear friend, the gentleman from North Carolina (Mr. COBLE), for bringing this issue to us, as well as the chairman of the full committee. I appreciate it very much. It is an important piece of legislation for us. I urge its passage.

Mr. Speaker, I rise today in support of H.R. 1197, the Plant Patent Amendments Act of 1997. I would like to take a moment to thank Chairman COBLE of the Judiciary Subcommittee on Courts and Intellectual Property and Chairman HYDE of the Full Judiciary Committee for allowing me to bring this important bill to the floor today. I would also like to take a moment and thank my colleague from California, Representative SAM FARR, for his hard work in bringing this important matter to the floor today.

We are here today to reaffirm the protection of patents by U.S. growers that has already been passed overwhelmingly by the House in April of last year as part of the Omnibus Patent Act of 1997, H.R. 400. Unfortunately, that bill is not expected to be approved by the other body. My legislation, H.R. 1197, is simply the stand-alone version of that section of the bill already passed by the House. It addresses an issue that has long needed clarification. Agricultural producers can not afford to wait another year for the protection from bootleggers of plant parts this bill provides.

H.R. 1197 is a simple technical clarification to a loophole in the Plant Patent Act of 1930. When Congress drafted the Plant Patent Act of 1930, it had no way of knowing the technological advances that science, and the agricultural industry, would make in the growing of plants. Plant breeders and growers in the U.S. are being denied the protection intended by Congress when it enacted the Plant Patent Act of 1930 because of an ambiguity in the law. H.R. 1197 clarifies this ambiguity by specifically including the coverage of plant parts in the Plant Patent Act of 1930. U.S. breeders and growers of patented plants are incurring substantial losses from unauthorized propagation of their plant inventions in foreign countries, and the subsequent export to the U.S. of plant parts such as flowers and fruit harvested from these bootlegged plants.

Currently, foreign growers can come to the U.S., acquire a plant, grow the plant, and then

sell its fruits or flowers in U.S. markets without paying any royalty. This practice undercuts U.S. businesses that own the patents and penalizes growers who honor the U.S. patent. U.S. plant breeders lose a substantial amount of income annually from uncollected royalty payments due to this practice.

The loss of royalty income, and U.S. market share, adversely affects U.S. domestic research and breeding. This lost income inhibits investment in the plant research and development programs which are the foundation of a strong horticultural industry. Additionally, those who sell plant parts from unauthorized plants, and do not pay royalties for varieties illegally grown, enjoy an unfair competitive advantage over both producers who pay royalties and the patent holder who also markets the product.

It is time to clarify the Plant Patent Act of 1930 and protect U.S. businesses who develop and produce the plants that we all use and enjoy. Please join me and my fellow colleagues here today and pass H.R. 1197.

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 1197.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

Mr. SOLOMON. Mr. Speaker, on behalf of the chairman of the Committee on International Relations, who is momentarily delayed, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 334) relating to Taiwan's participation in the World Health Organization.

The Clerk read as follows:

H. CON. RES. 334

Whereas good health is a basic right for every citizen of the world and access to the highest standards of health information and services is necessary to help guarantee this right;

Whereas direct and unobstructed participation in international health cooperation forums and programs is therefore crucial, especially with today's greater potential for the cross-border spread of various infectious diseases such as AIDS and Hong Kong bird flu through increased trade and travel;

Whereas the World Health Organization (WHO) set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people;

Whereas in 1977 the World Health Organization established "Health for all by the year 2000" as its overriding priority and reaffirmed that central vision with the initiation of its "Health For All" renewal process in 1995;

Whereas Taiwan's population of 21,000,000 people is larger than that of ¾ of the member states already in the World Health Organization and shares the noble goals of the organization;

Whereas Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia,

maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, the first Asian nation to be rid of polio, and the first country in the world to provide children with free hepatitis B vaccinations;

Whereas prior to 1972 and its loss of membership in the World Health Organization, Taiwan sent specialists to serve in other member countries on countless health projects and its health experts held key positions in the organization, all to the benefit of the entire Pacific region;

Whereas Taiwan is not allowed to participate in any WHO-organized forums and workshops concerning the latest technologies in the diagnosis, monitoring, and control of diseases;

Whereas in recent years both the Taiwanese Government and individual Taiwanese experts have expressed a willingness to assist financially or technically in WHO-supported international aid and health activities, but have ultimately been unable to render such assistance;

Whereas according to the constitution of the World Health Organization, Taiwan does not fulfill the criteria for membership;

Whereas the World Health Organization does allow observers to participate in the activities of the organization; and

Whereas in light of all of the benefits that such participation could bring to the state of health not only in Taiwan, but also regionally and globally: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) Taiwan and its 21,000,000 people should have appropriate and meaningful participation in the World Health Organization; and

(2) it should be United States policy to pursue some initiative in the World Health Organization which will give Taiwan meaningful participation in a manner that is consistent with such organization's requirements.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. SOLOMON) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) will each control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SOLOMON asked and was given permission to revise and extend his remarks.)

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I could not share the time with a more distinguished gentleman than my good friend.

Again, Mr. Speaker, on behalf of our very, very distinguished and great chairman of the Committee on International Relations, the committee which I had the privilege of serving on for many, many years until someone we know named Robert Michel drug me kicking and screaming off of that committee and gave me a chance to serve